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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,836	11/25/2003	Michael Cohen	LA-6658-110US	9273

167 7590 05/04/2005

FULBRIGHT AND JAWORSKI L L P  
PATENT DOCKETING 29TH FLOOR  
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LOS ANGELES, CA 900172576

EXAMINER

PATEL, TAJASH D

ART UNIT PAPER NUMBER

3765

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/723,836

Applicant(s)

COHEN, MICHAEL

Examiner

Tejash D Patel

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 4 is objected to because of the following informalities:

The use of the trademark "Velcro" has been noted in claim 4. It should be changed to generic terminology such as -- hook and loop material --.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burwell (US 5,617,582) in view of Crispin (US 5,465,425).

Burwell discloses a modular load bearing system including a base surface being provided with a plurality of sleeve means (88) and a plurality of pouches (140) being formed of a plurality of panels that has a major flange-like extension

attached to one of its end to a back surface thereof which is inserted through one of the sleeves as shown in figure 13. Further, the each of the pouches are fastened by snaps when inserted through each of the sleeves, col. 3, lines 54-67. Also, the panels of the sleeves are attached to the base surface along two spaced apart lateral edges as shown in figure 1. Furthermore, snap fastening means are provided directly on an extension of the sleeve as shown in figure 13. Each of the pouches includes a minor flange-like extension (176) being attached to an end of the back surface that is opposite the major flange such that fastening means connects the minor flange to the major flange as shown in figure 15c. In addition. An openable flap dependable from the base surface is arranged to cover the minor flange as shown in figure 15B. However, Burwell does not show the invention as set forth above except having the base surface of Burwell being removably fastened to a back surface of the pouch.

Crispin discloses a garment having a base surface with interaction removable hook and loop material (58) that is fastened to a back surface of pouches having hook and loop material (60), 4, lines 6-11 and a shown in figures 1, 4, 5.

It would have been obvious to one skilled in the art to provide the base surface and pouches of Burwell with removable complementary fastener as taught by Crispin as an alternative but equivalent means of securing the pouch relative to the garment as known in the art or depending on the end use thereof.

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With regard to claim 5, it would have been obvious that the pouches of Burwell when viewed with Crispin can be made of any desired configuration as required for a particular application or end use thereof.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The fax phone number for this group is (703) 872-9306.



**TEJASH PATEL  
PRIMARY EXAMINER**

April 27, 2005